

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EMANIA SHEPARD,

Petitioner,

- against -

MICHAEL KIRKPATRICK,

Respondent.
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MEMORANDUM AND
ORDER
17-CV-1235 (RRM)

ROSLYNN R. MAUSKOPF, United States District Judge.

This case has recently been reassigned to the undersigned. Petitioner Emannia Shepard's applications for appointment of counsel are denied. (Doc. No. 7,9.) Though this Court "may request an attorney to represent any person unable to afford counsel" pursuant to 28 U.S.C. § 1915(e)(1), "whether the appointment of counsel is necessary" is within the Court's discretion. *In re Martin-Trigona*, 737 F.2d 1254, 1260 (2d Cir. 1984). This determination turns on whether the person is indigent, is unable to obtain counsel, and has a legal position that "seems likely to be of substance." *Hodge v. Police Officers*, 802 F.2d 58, 61 (2d Cir. 1986), *cert. denied sub. nom.*, *Hodge v. Colon*, 502 U.S. 986 (1991). For the Court to appoint petitioner counsel in his civil action, he must first make "at least a threshold showing of some merit." *Johnston v. Genessee Cnty. Sheriff Maha*, 606 F.3d 39, 41 (2d Cir. 2010).

At this stage of the case, Shepard has failed to demonstrate sufficient merit for the appointment of counsel. *See, e.g., Terminate Control Corp. v. Horowitz*, 28 F.3d 1335 (2d Cir. 1994). Counsel will be appointed for Shepard only if the Court finds, after further review of the petition, that appointment would be warranted, or upon further application by Shepard.

CONCLUSION

Shepard's requests for appointment of counsel are denied without prejudice. The Clerk of Court is respectfully ordered to mail a copy of this Order, as well as the entire docket sheet for this case, to Shepard and note the mailing on the docket.

SO ORDERED.

Dated: Brooklyn, New York

Roslynn R. Mauskopf

April 4, 2019

ROSLYNN R. MAUSKOPF
United States District Judge